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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Adult Printed Diapers LLC,

Plaintiff,

v.

Rearz Incorporated, et al.,

Defendants.

No. CV-18-00370-PHX-DJH

**ORDER SETTING SETTLEMENT
CONFERENCE**

This case has been referred to United States Magistrate Judge Eileen S. Willett for a settlement conference (Doc. 41). The purpose of the settlement conference is to facilitate resolution of the referenced case.

Rule 408, Federal Rules of Evidence, applies to all aspects of the settlement conference. All communications and information exchanges made in the settlement process, not otherwise discoverable, will not be admissible in evidence for any purpose. At the conclusion of the settlement conference, all documents submitted by the parties shall be returned, destroyed, or otherwise disposed of in the manner directed by the settlement judge.

Pursuant to Rule 16, Federal Rules of Civil Procedure, and 28 U.S.C. §473(b)(5),

1 **IT IS ORDERED THAT:**

2 1. Telephonic Status Conference is set on **Wednesday, September 5, 2018 at**
3 **2:00 p.m.**, before United States Magistrate Judge Eileen S. Willett, 602-322-7620. All
4 counsel who will participate in the Settlement Conference shall participate in the
5 Telephonic Status Conference. The Court will discuss the manner in which this
6 Magistrate Judge conducts Settlement Conferences. In addition, counsel should be
7 prepared to discuss any information which may assist the Court in helping the parties
8 reach a fair resolution of issues pending before the Court. Counsel shall deliver or mail
9 their respective Confidential Settlement Statement forms to the Magistrate Judge so that
10 the Magistrate Judge can read them in preparation for the Telephonic Status Conference.
11 Counsel for Plaintiff shall initiate the conference call to Chambers.

12 2. A Settlement Conference shall be held before United States Magistrate Judge
13 Eileen S. Willett in Courtroom 606, Sandra Day O'Connor U.S. Courthouse, 401 West
14 Washington Street, Phoenix, Arizona, on **Monday, September 17, 2018 at 1:30 p.m.**
15 The Settlement Conference shall continue until concluded by the court.

16 3. Sanctions may result, including possible dismissal of the case, if a party fails
17 to:

- 18 • Physically appear at the Settlement Conference;
- 19 • Participate in good faith at the Settlement Conference;
- 20 • Timely submit the Confidential Settlement Statement attached
- 21 hereto; OR
- 22 • Comply with any other portion of this order.

23
24 4. Each named party shall be physically present at the Settlement Conference
25 unless the court finds good cause to permit a party to appear by telephone prior to the
26 settlement conference being held.

27 5. A corporation, association, partnership, business entity, organization,
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1 governmental agency, or political body shall appear through a representative having full
2 binding settlement authority in addition to counsel.¹

3 6. Counsel who will be responsible for trial of the lawsuit for each party shall
4 personally appear and participate in good faith at the Settlement Conference.

5 7. Each party (i.e. each separately represented party and each unrepresented party)
6 shall submit a completed settlement statement form (a copy is attached for your use) in an
7 envelope marked “Confidential” addressed to Honorable Eileen S. Willett, Settlement
8 Conference Judge, United States District Court, 401 West Washington Street, Suite 321,
9 SPC 13, Phoenix, Arizona, 85003-2120. The statement may be **hand delivered or**
10 **mailed**; however, it must be received by United States Magistrate Judge Eileen S. Willett
11 on or before **Wednesday, August 29, 2018**.

12 8. If a party believes that the Settlement Conference would be a futile act²
13 resulting in economic waste inconsistent with Rule 1, Fed. R. Civ. P., the party shall file a
14 notice with the Court **no later than fourteen (14) days** after the date of this Order. The
15 party shall also provide a copy of the notice to Magistrate Judge Eileen S. Willett’s
16 chambers. The notice shall explain in detail why the party believes the Settlement
17 Conference would not be an efficient use of time and resources of the parties and the
18 Court. Upon receiving the notice, the Court will arrange a telephonic conference with
19 counsel to discuss whether the Settlement Conference, or another form of alternative
20 dispute resolution, would help move the case towards resolution.

21 9. Failure to timely file the notice described in the preceding paragraph constitutes
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24
25 ¹ “Full binding settlement authority” within this Order means that the individual
26 appearing for or on behalf of the Defendant(s) shall have the express authority and
27 discretion to authorize payment to, or accept the terms of, Plaintiff’s last settlement
demand.

28 ² A settlement conference may be deemed a futile act, for example, when a party
or insurer adopts a position from which that party or insurer refuses to deviate.

1 a party's acknowledgment and agreement that there is a reasonable, good faith
2 opportunity to resolve the case at the Settlement Conference.

3 Dated this 16th day of May, 2018.

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7 Honorable Eileen S. Willett
8 United States Magistrate Judge
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2 **CONFIDENTIAL SETTLEMENT STATEMENT**
3

4 IN RE: CV-
5 _____

6 **THIS DOCUMENT IS CONFIDENTIAL AND SHOULD BE SENT DIRECTLY**
7 **TO THE SETTLEMENT CONFERENCE JUDGE, HON. EILEEN S. WILLETT,**
8 **UNITED STATES DISTRICT COURT, 401 WEST WASHINGTON STREET,**
9 **SUITE 321, SPC 13, PHOENIX, AZ 85003. THIS DOCUMENT SHALL NOT BE**
10 **SERVED ON THE OPPOSING PARTY NOR FILED WITH THE CLERK OF**
11 **THE COURT. THIS DOCUMENT WILL BE DESTROYED AT THE**
12 **CONCLUSION OF THE SETTLEMENT CONFERENCE PROCEEDINGS. NO**
13 **REFERENCE TO THIS DOCUMENT OR ITS CONTENTS SHALL BE MADE IN**
14 **ANY MOTIONS, BRIEFS OR OTHER DOCUMENTS FILED IN THIS CASE.**
15 **THIS DOCUMENT SHALL BE INADMISSABLE IN EVIDENCE IN ANY**
16 **JUDICIAL PROCEEDING.**
17

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19
20 PARTY SUBMITTING STATEMENT: _____

21 NAME OF ATTORNEY SUBMITTING STATEMENT: _____
22 (OR PARTY IF UNREPRESENTED BY COUNSEL)

23 ADDRESS: _____

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25 PHONE: _____

26 FAX: _____
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FACTS

Give a brief statement of the undisputed facts. Give a brief statement of the disputed facts.

ISSUES

List all issues to be negotiated:

HISTORY

Give a chronology of significant events involving any prior settlement discussions and mediations attended, including each offer or demand made.

CASE ANALYSIS: Yours

Describe from your perspective the strengths and weaknesses of your case:

CASE ANALYSIS: Theirs

Describe from their perspective the strengths and weaknesses of their case:

CRITERIA:

List the criteria you will use to decide if a proposal is acceptable:

List the criteria you believe they will use to decide if a proposal is acceptable:

OPTIONS:

Generate a list of possible options for each issue to be negotiated.

ISSUES	OPTIONS

ANY OTHER INFORMATION THAT YOU FEEL WOULD HELP THE
SETTLEMENT CONFERENCE JUDGE:

DATED this _____ day of _____, 2014.

Signature of Counsel or Party

**Please use the format provided to answer the questions posed. Please be
courteous and reasonable in the length of your responses.**